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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON

9 BRETT MARTIN on behalf of himself and )  
10 all others similarly situated, )

11 Plaintiff, )

12 vs. )

13 SUNLIGHT SUPPLY, INC., )

14 Defendant. )  
15 )  
16 )

Case No. 2:18-cv-00600-TSZ

**STIPULATED PROTECTIVE ORDER**

17 1. PURPOSES AND LIMITATIONS

18 Discovery in this action is likely to involve production of confidential, proprietary, or private  
19 information for which special protection may be warranted. Accordingly, the parties hereby stipulate  
20 to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge  
21 that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures  
22 or responses to discovery, the protection it affords from public disclosure and use extends only to the  
23 limited information or items that are entitled to confidential treatment under the applicable legal  
24 principles, and it does not presumptively entitle parties to file confidential information under seal.  
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1     2.     “CONFIDENTIAL” MATERIAL

2             “Confidential” material shall include the following documents and tangible things produced or  
3 otherwise exchanged: personnel data, records, and files; payroll data and records; Defendant’s financial  
4 records; documents concerning Defendant’s financial status; documents or other information that is  
5 objectively private or contains financially sensitive information about a person or entity, such that  
6 disclosure of the information would likely have the effect of causing substantial harm to the person or  
7 entity; and, documents or other information that is otherwise entitled to protection under FRCP 26.  
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9     3.     SCOPE

10            The protections conferred by this agreement cover not only confidential material (as defined  
11 above), but also (1) any information copied or extracted from confidential material; (2) all copies,  
12 excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or  
13 presentations by parties or their counsel that might reveal confidential material.  
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15            However, the protections conferred by this agreement do not cover information that is in the  
16 public domain or becomes part of the public domain through trial or otherwise.

17     4.     ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

18            4.1     Basic Principles. A receiving party may use confidential material that is disclosed or  
19 produced by another party or by a non-party in connection with this case only for prosecuting,  
20 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the  
21 categories of persons and under the conditions described in this agreement. Confidential material must  
22 be stored and maintained by a receiving party at a location and in a secure manner that ensures that  
23 access is limited to the persons authorized under this agreement.  
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25            4.2     Disclosure of confidential information and items. Unless otherwise ordered by the court  
26 or permitted in writing by the designating party, use of any information, documents, or portions of

documents marked "CONFIDENTIAL," including all information derived therefrom, shall be restricted solely to the following persons:

(a) the receiving party's counsel of record in this action, as well as employees of counsel to whom it is reasonably necessary to disclose the information for this litigation;

(b) any party to an action who is an individual, and the officers, directors, and employees (including in house counsel) of the receiving party to whom disclosure is reasonably necessary for this litigation, unless a particular document or material produced is for Attorneys' Eyes Only and is so designated;

(c) experts and consultants to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the court, court personnel, and court reporters and their staff;

(e) copy or imaging services retained by counsel to assist in the duplication of confidential material, provided that counsel for the party retaining the copy or imaging service instructs the service not to disclose any confidential material to third parties and to immediately return all originals and copies of any confidential material;

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this agreement;

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) a court-appointed or mutually agreed upon mediator assisting in this litigation.

4.3 Filing Confidential Material. Before filing confidential material or discussing or referencing such material in court filings, the filing party shall confer with the designating party to determine whether the designating party will remove the confidential designation, whether the document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

## 5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-party that designates information or items for protection under this agreement must take care to limit any such designation to specific material that qualifies under the appropriate standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

1           5.2    Manner and Timing of Designations. Except as otherwise provided in this agreement  
2 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, disclosure  
3 or discovery material that qualifies for protection under this agreement must be clearly so designated  
4 before or when the material is disclosed or produced.

5                   (a)    Information in documentary form: (e.g., paper or electronic documents and  
6 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the  
7 designating party must affix the word “CONFIDENTIAL” to each page that contains confidential  
8 material and “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that contains  
9 information that should be restricted as Attorneys’ Eyes Only. If only a portion or portions of the  
10 material on a page qualifies for protection, the producing party also must clearly identify the  
11 protected portion(s) (e.g., by making appropriate markings in the margins).

12                   (b)    Testimony given in deposition or in other pretrial proceedings: the parties and  
13 any participating non-parties must identify on the record, during the deposition or other pretrial  
14 proceeding, all protected testimony, without prejudice to their right to so designate other testimony  
15 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the  
16 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits  
17 thereto, as confidential. If a party or non-party desires to protect confidential information at trial, the  
18 issue should be addressed during the pre-trial conference.

19                   (c)    Other tangible items: the producing party must affix in a prominent place on the  
20 exterior of the container or containers in which the information or item is stored the word  
21 “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or  
22 portions of the information or item warrant protection, the producing party, to the extent practicable,  
23 shall identify the protected portion(s).  
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1           5.3     Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate  
2 qualified information or items does not, standing alone, waive the designating party's right to secure  
3 protection under this agreement for such material. Upon timely correction of a designation, the  
4 receiving party must make reasonable efforts to ensure that the material is treated in accordance with  
5 the provisions of this agreement.

6           6.     CHALLENGING CONFIDENTIALITY DESIGNATIONS

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8           6.1     Timing of Challenges. Any party or non-party may challenge a designation of  
9 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality  
10 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
11 or a significant disruption or delay of the litigation, a party does not waive its right to challenge a  
12 confidentiality designation by electing not to mount a challenge promptly after the original designation  
13 is disclosed.

14           6.2     Meet and Confer. The parties must make every attempt to resolve any dispute regarding  
15 designations without court involvement. Any motion regarding designations or for a protective order  
16 must include a certification, in the motion or in a declaration or affidavit, that the movant has engaged  
17 in a good faith meet and confer conference with other affected parties in an effort to resolve the dispute  
18 without court action. The certification must list the date, manner, and participants to the conference. A  
19 good faith effort to confer requires a face-to-face meeting or a telephone conference.  
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21           6.3     Judicial Intervention. If the parties cannot resolve a challenge without court  
22 intervention, the designating party may file and serve a motion to retain confidentiality under Local  
23 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion in  
24 any such motion shall be on the designating party. Frivolous challenges, and those made for an  
25 improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
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1 expose the challenging party to sanctions. All parties shall continue to maintain the material in question  
2 as confidential until the court rules on the challenge.

3 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
4 LITIGATION

5 If a party is served with a subpoena or a court order issued in other litigation that compels  
6 disclosure of any information or items designated in this action as “CONFIDENTIAL” or  
7 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that party must:

8 (a) promptly notify the designating party in writing and include a copy of the  
9 subpoena or court order;

10 (b) promptly notify in writing the party who caused the subpoena or order to issue  
11 in the other litigation that some or all of the material covered by the subpoena or order is subject to this  
12 agreement. Such notification shall include a copy of this agreement; and

13 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
14 designating party whose confidential material may be affected.  
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16 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

17 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential  
18 material to any person or in any circumstance not authorized under this agreement, the receiving party  
19 must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its  
20 best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons  
21 to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that  
22 such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached  
23 hereto as Exhibit A.  
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1 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
2 MATERIAL

3 When a producing party gives notice to receiving parties that certain inadvertently produced  
4 material is subject to a claim of privilege or other protection, the obligations of the receiving parties are  
5 those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
6 whatever procedure may be established in an e-discovery order or agreement that provides for  
7 production without prior privilege review. The parties agree to the entry of a non-waiver order under  
8 Fed. R. Evid. 502(d) as set forth herein.

9 10. NON TERMINATION AND RETURN OF DOCUMENTS

10 Within 60 days after the termination of this action, including all appeals, each receiving party  
11 must return all confidential material to the producing party, including all copies, extracts and summaries  
12 thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

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14 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
15 documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition  
16 and trial exhibits, expert reports, attorney work product, and consultant and expert work product,  
17 even if such materials contain confidential material.

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1 The confidentiality obligations imposed by this agreement shall remain in effect until a designating  
2 party agrees otherwise in writing or a court orders otherwise.

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4 DATED: June 18, 2018

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6 OUTTEN & GOLDEN LLP

7 s/ René S. Roupinian

8 Jack A. Raisner

9 René S. Roupinian

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Attorneys for Plaintiff

12  
13 DATED: June 21, 2018

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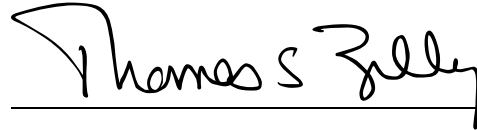
Attorneys for Defendant

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21 PURSUANT TO STIPULATION, IT IS SO ORDERED

22 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any  
23 documents in this proceeding shall not, for the purposes of this proceeding or any other proceeding in  
24 any other court, constitute a waiver by the producing party of any privilege applicable to those  
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1 documents, including the attorney-client privilege, attorney work-product protection, or any other  
2 privilege or protection recognized by law.

3 DATED this 27th day of June, 2018.

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6 Thomas S. Zilly  
7 United States District Judge  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of  
perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued  
by the United States District Court for the Western District of Washington on [date] in the case of  
\_\_\_\_\_ **[insert formal name of the case and the number and initials assigned to it by  
the court]**. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order  
and I understand and acknowledge that failure to so comply could expose me to sanctions and  
punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any  
information or item that is subject to this Stipulated Protective Order to any person or entity except in  
strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western  
District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even  
if such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_